



**DOUG HOWARD, DIRECTOR
MICHIGAN FAMILY INDEPENDENCE AGENCY**

**ON BEHALF OF THE
AMERICAN PUBLIC HUMAN SERVICES ASSOCIATION**

THE SENATE COMMITTEE ON INDIAN AFFAIRS

MAY 10, 2002

Introduction

Good morning, Mr. Chairman and members of the Committee. I am Doug Howard, director of the Michigan Family Independence Agency and president of the American Public Human Services Association (APHSA), a nonprofit, bipartisan organization representing state and local human service professionals for more than 70 years. Thank you for the opportunity to testify today on the implementation and reauthorization of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and the tribal TANF Program as created in that legislation.

Over the past five years, welfare reform has been implemented in a variety of ways throughout the country, with no one model of state-tribal interaction and coordination. As of last year, 170 tribes or consortiums have taken on the administration of the TANF program in 15 states with the Navajo Nation TANF program spanning across the borders of three states (Arizona, New Mexico, and Utah). In some states with tribal TANF programs, such as Alaska, tribes have chosen to contract back with the state for data reporting and eligibility determinations. In other states, like Wisconsin and Minnesota, tribes are the contractors of states and county TANF programs, and in still other states, such as my own state of Michigan, where there are 12 federally recognized Indian tribes, Native Americans have continued to receive services through the state's TANF program.

TANF Created New Opportunities for State-Tribal Collaborations

As demonstrated by varied arrangements, the Temporary Assistance for Needy Families (TANF) program and the tribal TANF program have created an opportunity for states and tribes to come together and reevaluate delivery of social services in Indian Country. Similarly, APHSA has come together with the National Congress of American Indians (NCAI), and the Navajo Nation and are committed to an on-going relationship with the goal of increasing dialogue between states and tribes. At the request of our members, our groups will continue to convene joint forums and undertake joint activities. While it is likely that states and tribes will not agree on every issue, it is important to openly discuss these issues in the hope that states and tribes can gain a better understanding of one another's perspectives and, perhaps, find some common ground. It is clearly in our mutual interest to provide the most accessible, appropriate, and coordinated services for the families we serve. To this end, our member states and tribes have taken the first step in framing some of the critical issues as a starting point for joint discussion, as well as identifying areas of consensus on legislative proposals before Congress.

A Need for a Stronger Federal Commitment

Although the rationale sometimes differed, there was overwhelming agreement between APHSA and NCAI that a greater financial commitment on the part of the federal government is necessary to support tribes in administering successful TANF programs.

Most tribes are starting their TANF programs with no established infrastructure and without an adequate level of federal support, they are unable to reach the level of success necessary to move families into stable employment. Though not required to do so under current law, many states have provided capacity grants, technical assistance, and state maintenance-of-effort (MOE) dollars to new tribal TANF programs. However, these arrangements exist on a state-by-state basis and between individual tribal programs and the state.

Possible Solutions: Although it would not resolve all issues, the full federal funding of tribal TANF programs would alleviate a majority of the issues facing tribes and states on the tribal TANF program. Short of full funding, there are additional ways in which the federal government could better support tribal TANF. One of the more obvious is through creation of federal grants to tribes for capacity building, technical assistance, and economic development. A second is to create an adjustment in tribal TANF grants as programs grow in size and require additional resources. Finally, federal incentives or support for state efforts to direct resources to tribal TANF and other employment-related programs would be advantageous to both states and tribes.

Federal/State/Tribal Coordination and Support

Both state and tribal governments have expressed concern that in the initial stages of the TANF program, the federal government has not supported an environment that easily fosters a collaborative relationship between tribal and state TANF administrators. We hope that more joint conversations among all three levels of government will help improve the situation as well as the following suggestions.

Possible Solutions: We suggest that technical assistance funding be provided for best practices in state/tribal coordination as tribes take on the administration of TANF and other human service programs and funding streams. This form of assistance would be invaluable not only for states and tribes with formal tribal TANF programs, but also for tribes without TANF programs as they take on the administration of other human service programs. We also encourage mutual consultation in the development of state and tribal TANF plans as a means of information sharing.

High Joblessness and the Need for Economic Development

Although the national unemployment rate is 6 percent, the U.S. Bureau of Indian Affairs identified the average unemployment rate across all Indian reservations at 43 percent. This extreme rate of joblessness and the lack of viable employment options must be taken into account in TANF reauthorization. We support enhanced flexibility to tribal TANF programs as well as states to adjust for such factors. At the same time, we need to ensure that the ability of a state to meet federal work participation requirements is not adversely impacted. Presently, although TANF families in Indian Country may be exempt from the federal lifetime time limit on assistance, in many instances they continue to count in calculating the state's work participation rate. In some states up to 50 percent of their

TANF population is exempt from the time limit, making it difficult to meet work participation rates.

Possible Solutions: As mentioned earlier, economic development is critical to the success of most tribal TANF programs and there is a definitive need for the federal government to provide grants in this area. In addition, although the present benchmark of a 50 percent joblessness rate may not accurately measure the true situation in Indian Country, we are unclear as to what would be an appropriate level. Therefore, we suggest that if Congress chooses to adjust the joblessness rate level used to trigger exemptions from time limits, the impact on state work participation rates must also be addressed.

Remaining Issues: Service Area and Service Population and Set Asides

Although there are many areas of agreement, between states and tribes, several important issues remained unresolved. In particular, the issue of “service area/service population” is a central one. States need clarification of their responsibility with regard to providing services to certain populations. This issue is juxtaposed with the need of a tribal government to have the flexibility to define who will be eligible for its program (service population) within the broader service area. Tribal governments applying to administer a program have the opportunity to define both their service area (a geographic area) and their service population (the individuals and families who are eligible to apply to receive assistance from the program). The tribal TANF service area, for example, may consist of the Indian reservation(s) or the reservation and some surrounding counties/towns. The service population indicates whether the tribe/consortium intends to serve tribally enrolled families, all Native families, or all families (both Native and non-Native). However, the amount of the federal tribal TANF block grant is based on the 1994 AFDC population within the broadly defined service area and not on the specified service population. Until there is adequate funding for tribal TANF programs to serve all native Americans in the claimed service area, or until there is clearly defined responsibility and corresponding funding for families within a service area and not served by a tribal TANF program, this issue will not be resolved. Resolution of this issue will help inform deliberation on other issues, particularly with regard to equitable access to services.

Set Asides

APHSa recognizes that tribal TANF programs, like state TANF programs, should be eligible for bonuses and contingency funds, as well as child care, and other funding streams. However, our support of expanding access to these programs must be contingent on our policy that these expansions be based on new federal dollars and not based on set asides or earmarks to present funds. Although set asides appear to be small, they impinge on state flexibility and on the delivery of human services and compelling states to redirect resources from one valuable and deserving service and population to another.

Direct Funding to Tribes for Related Programs

Child Welfare and Foster Care

APHSA supports affording tribes direct access to Title IV-E funding. When the Title IV-E statute was written in 1980, tribal governments and children placed by tribal courts were not included as eligible for this open-ended federal entitlement program. Currently, tribes can only gain access to funding through agreements with state agencies. Only 50 of the 550 federally recognized tribes have been able to enter into agreements with states to provide access to at least some IV-E funds. These agreements primarily provide foster care maintenance funds only; they do not provide administrative, training, and data system funding. In only 15 of the 50 agreements do states provide tribes with IV-E administration funds, and only two of the agreements provide any IV-E training funds to tribes. None of the agreements provides funding for tribes for information systems development, while funding is available to states under Title IV-E. Under the welfare reform act, tribes have direct access to TANF. As with TANF, a more efficient and equitable system would be to fund tribes directly through Title IV-E, enabling them increased capacity to meet outcomes for these children.

Child Support

APHSA supports the change of law that allows for direct funding of tribal child support programs. Unfortunately, although the legislation passed in 1996, final regulations allowing direct federal funding to tribes have not yet been promulgated. In order for this new process to move forward, the regulations need to be finalized. In addition, further guidance is needed to address issues of jurisdiction. States and tribes need to know who is the lead on cases involving parents residing in different states or tribes or cases where parents move from one state to the other. Further, current regulations do not indicate whether a tribe or state has priority in retaining TANF collections for individuals who have received both tribal and state TANF assistance. Without greater clarity, states could become mired in disputes about jurisdiction and could face increased lawsuits. Federal guidance should be developed in close consultation with states and tribes and should recognize agreements that states have already made with tribes.

Summary

Through discussions on the reauthorization of the TANF program, it has become extremely clear that both tribal and state governments often have the same experience with the federal government regarding funding, flexibility, and support for the coordinated delivery of services. While recognizing and respecting the federal/tribal government to government relationship, it is also necessary to recognize that a relationship exists between states and tribal governments. APHSA believes that TANF reauthorization is only the first step in a long relationship of working with Native American communities as they take on the administration of additional human service

programs presently under state purview. We respect the diversity of approaches being undertaken between tribal governments and states across the country and APHSA hopes to encourage and support new models of cooperation and collaboration.

Thank you for the opportunity to testify and I would be happy to respond to any questions.